

Amendment No. 10

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing PCB: Transportation & Highway
 2 Safety Subcommittee
 3 Representative Raburn offered the following:

Amendment (with title amendment)

Between lines 3492 and 3493, insert:

Section 62. Section 319.30, Florida Statutes, is amended to read:

319.30 Definitions; dismantling, destruction, change of identity of motor vehicle or mobile home; salvage.—

(1) As used in this section, the term:

(a) "Certificate of destruction" means the certificate issued pursuant to s. 713.78(11) or s. 713.785(7) (a).

(b) "Certificate of registration number" means the certificate of registration number issued by the Department of Revenue of the State of Florida pursuant to s. 538.25.

(c) "Certificate of title" means a record that serves as evidence of ownership of a vehicle, whether such record is a paper certificate authorized by the department or by a motor vehicle department authorized to issue titles in another state

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21 or a certificate consisting of information stored in electronic
22 form in the department's database.

23 (d) "Derelict" means any material which is or may have
24 been a motor vehicle or mobile home, which is not a major part
25 or major component part, which is inoperable, and which is in
26 such condition that its highest or primary value is in its sale
27 or transfer as scrap metal.

28 (e) "Derelict motor vehicle" means:

29 1. Any motor vehicle as defined in s. 320.01(1) or mobile
30 home as defined in s. 320.01(2), with or without all parts,
31 major parts, or major component parts, which is valued under
32 \$1,000, is at least 10 model years old, beginning with the model
33 year of the vehicle as year one, and is in such condition that
34 its highest or primary value is for sale, transport, or delivery
35 to a licensed salvage motor vehicle dealer or registered
36 secondary metals recycler for dismantling its component parts or
37 conversion to scrap metal; or

38 2. Any trailer as defined in s. 320.01(1), with or without
39 all parts, major parts, or major component parts, which is
40 valued under \$5,000, is at least 10 model years old, beginning
41 with the model year of the vehicle as year one, and is in such
42 condition that its highest or primary value is for sale,
43 transport, or delivery to a licensed salvage motor vehicle
44 dealer or registered secondary metals recycler for conversion to
45 scrap metal.

46 (f) "Derelict motor vehicle certificate" means a
47 certificate issued by the department which serves as evidence
48 that a derelict motor vehicle will be dismantled or converted to

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49 scrap metal. This certificate may be obtained by completing a
50 derelict motor vehicle certificate application authorized by the
51 department. A derelict motor vehicle certificate may be
52 reassigned only one time if the derelict motor vehicle
53 certificate was completed by a licensed salvage motor vehicle
54 dealer and the derelict motor vehicle was sold to another
55 licensed salvage motor vehicle dealer or a secondary metals
56 recycler.

57 (g) "Independent entity" means a business or entity that
58 may temporarily store damaged or dismantled motor vehicles
59 pursuant to an agreement with an insurance company and is
60 engaged in the sale or resale of damaged or dismantled motor
61 vehicles. The term does not include a wrecker operator, a towing
62 company, or a repair facility.

63 (h) "Junk" means any material which is or may have been a
64 motor vehicle or mobile home, with or without all component
65 parts, which is inoperable and which material is in such
66 condition that its highest or primary value is either in its
67 sale or transfer as scrap metal or for its component parts, or a
68 combination of the two, except when sold or delivered to or when
69 purchased, possessed, or received by a secondary metals recycler
70 or salvage motor vehicle dealer.

71 (i) "Major component parts" means:

72 1. For motor vehicles other than motorcycles, any fender,
73 hood, bumper, cowl assembly, rear quarter panel, trunk lid,
74 door, decklid, floor pan, engine, frame, transmission, catalytic
75 converter, or airbag.

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76 2. For trucks, in addition to those parts listed in
77 subparagraph 1., any truck bed, including dump, wrecker, crane,
78 mixer, cargo box, or any bed which mounts to a truck frame.

79 3. For motorcycles, the body assembly, frame, fenders, gas
80 tanks, engine, cylinder block, heads, engine case, crank case,
81 transmission, drive train, front fork assembly, and wheels.

82 4. For mobile homes, the frame.

83 (j) "Major part" means the front-end assembly, cowl
84 assembly, or rear body section.

85 (k) "Materials" means motor vehicles, derelicts, and major
86 parts that are not prepared materials.

87 (l) "Mobile home" means mobile home as defined in s.
88 320.01(2).

89 (m) "Motor vehicle" means motor vehicle as defined in s.
90 320.01(1).

91 (n) "National Motor Vehicle Title Information System" means
92 the national mandated vehicle history database required under 28
93 CFR Part 25 and maintained for the United States Department of
94 Justice that links the states' motor vehicle title records,
95 including the department's motor vehicle title records, and
96 requires the reporting of Junk and salvage motor vehicles in
97 order to ensure that states, law enforcement agencies, and
98 consumers have access to vehicle titling, branding, and other
99 information that enables them to verify the accuracy and
100 legality of motor vehicle titles before purchase or title
101 transfer of the vehicle occurs.
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103 (o)~~(n)~~ "Parts" means parts of motor vehicles or
104 combinations thereof that do not constitute materials or
105 prepared materials.

106 (p)~~(o)~~ "Prepared materials" means motor vehicles, mobile
107 homes, derelict motor vehicles, major parts, or parts that have
108 been processed by mechanically flattening or crushing, or
109 otherwise processed such that they are not the motor vehicle or
110 mobile home described in the certificate of title, or their only
111 value is as scrap metal.

112 (q)~~(p)~~ "Processing" means the business of performing the
113 manufacturing process by which ferrous metals or nonferrous
114 metals are converted into raw material products consisting of
115 prepared grades and having an existing or potential economic
116 value, or the purchase of materials, prepared materials, or
117 parts therefor.

118 (r)~~(q)~~ "Recreational vehicle" means a motor vehicle as
119 defined in s. 320.01(1).

120 (s)~~(r)~~ "Salvage" means a motor vehicle or mobile home
121 which is a total loss as defined in paragraph (3)(a).

122 (t)~~(s)~~ "Salvage certificate of title" means a salvage
123 certificate of title issued by the department or by another
124 motor vehicle department authorized to issue titles in another
125 state.

126 (u)~~(t)~~ "Salvage motor vehicle dealer" means salvage motor
127 vehicle dealer as defined in s. 320.27(1)(c)5.

128 (v)~~(u)~~ "Secondary metals recycler" means secondary metals
129 recycler as defined in s. 538.18.

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130 (w) "Self-insured entity" means a person, firm, business,
131 company, or corporation, including a rental car company, that
132 self-insures its own inventory or company vehicles.

133 (x)~~(v)~~ "Seller" means the owner of record or a person who
134 has physical possession and responsibility for a derelict motor
135 vehicle and attests that possession of the vehicle was obtained
136 through lawful means along with all ownership rights. A seller
137 does not include a towing company, repair shop, or landlord
138 unless the towing company, repair shop, or landlord has obtained
139 title, salvage title, or a certificate of destruction in the
140 name of the towing company, repair shop, or landlord.

141 (2) (a) Each person mentioned as owner in the last issued
142 certificate of title, when such motor vehicle or mobile home is
143 dismantled, destroyed, or changed in such manner that it is not
144 the motor vehicle or mobile home described in the certificate of
145 title, shall surrender his or her certificate of title to the
146 department, and thereupon the department shall, with the consent
147 of any lienholders noted thereon, enter a cancellation upon its
148 records. Upon cancellation of a certificate of title in the
149 manner prescribed by this section, the department may cancel and
150 destroy all certificates in that chain of title. Any person who
151 knowingly violates this paragraph commits a misdemeanor of the
152 second degree, punishable as provided in s. 775.082 or s.
153 775.083.

154 (b)1. When a motor vehicle, recreational vehicle, or
155 mobile home is sold, transported, delivered to, or received by a
156 salvage motor vehicle dealer, it shall be accompanied by:

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157 a. A valid certificate of title issued in the name of the
158 seller or properly endorsed, as required in s. 319.22, over to
159 the seller;

160 b. A valid salvage certificate of title issued in the name
161 of the seller or properly endorsed, as required in s. 319.22,
162 over to the seller; or

163 c. A valid certificate of destruction issued in the name
164 of the seller or properly endorsed over to the seller.

165 2. Any person who knowingly violates this paragraph by
166 selling, transporting, delivering, purchasing, or receiving a
167 motor vehicle, recreational vehicle, or mobile home without
168 obtaining a properly endorsed certificate of title, salvage
169 certificate of title, or certificate of destruction from the
170 owner commits a felony of the third degree, punishable as
171 provided in s. 775.082, s. 775.083, or s. 775.084.

172 (c)1. When a derelict motor vehicle is sold, transported,
173 or delivered to a licensed salvage motor vehicle dealer, the
174 purchaser shall record the date of purchase and the name,
175 address, and valid Florida driver's license number or valid
176 Florida identification card number, or a valid driver's license
177 number or identification card number issued by another state, of
178 the person selling the derelict motor vehicle, and it shall be
179 accompanied by:

180 a. A valid certificate of title issued in the name of the
181 seller or properly endorsed over to the seller;

182 b. A valid salvage certificate of title issued in the name
183 of the seller or properly endorsed over to the seller; or

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184 c. A valid certificate of destruction issued in the name
185 of the seller or properly endorsed over to the seller.

186 2. If a valid certificate of title, salvage certificate of
187 title, or certificate of destruction is not available, a
188 derelict motor vehicle certificate application shall be
189 completed by the seller or owner of the motor vehicle or mobile
190 home, the seller's or owner's authorized transporter, and the
191 licensed salvage motor vehicle dealer at the time of sale,
192 transport, or delivery to the licensed salvage motor vehicle
193 dealer. The derelict motor vehicle certificate application shall
194 be used by the seller or owner, the seller's or owner's
195 authorized transporter, and the licensed salvage motor vehicle
196 dealer to obtain a derelict motor vehicle certificate from the
197 department. The derelict motor vehicle certificate application
198 must be accompanied by a legible copy of the seller's or owner's
199 valid Florida driver's license or Florida identification card,
200 or a valid driver's license or identification card issued by
201 another state. If the seller is not the owner of record of the
202 vehicle being sold, the dealer shall, at the time of sale,
203 ensure that a smudge-free right thumbprint, or other digit if
204 the seller has no right thumb, of the seller is imprinted upon
205 the derelict motor vehicle certificate application and that a
206 legible copy of the seller's driver's license or identification
207 card is affixed to the application and transmitted to the
208 department. The licensed salvage motor vehicle dealer shall
209 secure the derelict motor vehicle for 3 full business days,
210 excluding weekends and holidays, if there is no active lien or a
211 lien of 3 years or more on the department's records before

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212 destroying or dismantling the derelict motor vehicle and shall
213 follow all reporting procedures established by the department,
214 including electronic notification to the department or delivery
215 of the original derelict motor vehicle certificate application
216 to an agent of the department within 24 hours after receiving
217 the derelict motor vehicle. If there is an active lien of less
218 than 3 years on the derelict motor vehicle, the licensed salvage
219 motor vehicle dealer shall secure the derelict motor vehicle for
220 10 days. The department shall notify the lienholder that a
221 derelict motor vehicle certificate has been issued and shall
222 notify the lienholder of its intention to remove the lien. Ten
223 days after receipt of the motor vehicle derelict certificate
224 application, the department may remove the lien from its records
225 if a written statement protesting removal of the lien is not
226 received by the department from the lienholder within the 10-day
227 period. However, if the lienholder files with the department and
228 the licensed salvage motor vehicle dealer within the 10-day
229 period a written statement that the lien is still outstanding,
230 the department shall not remove the lien and shall place an
231 administrative hold on the record for 30 days to allow the
232 lienholder to apply for title to the vehicle or a repossession
233 certificate under s. 319.28. The licensed salvage motor vehicle
234 dealer must secure the derelict motor vehicle until the
235 department's administrative stop is removed, the lienholder
236 submits a lien satisfaction, or the lienholder takes possession
237 of the vehicle. The licensed salvage motor vehicle dealer may
238 require the lienholder to reimburse them only for their not

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239 include any towing costs, storage fees, administrative fees, or
240 other costs.

241 3. Any person who knowingly violates this paragraph by
242 selling, transporting, delivering, purchasing, or receiving a
243 derelict motor vehicle without obtaining a certificate of title,
244 salvage certificate of title, certificate of destruction, or
245 derelict motor vehicle certificate application; enters false or
246 fictitious information on a derelict motor vehicle certificate
247 application; does not complete the derelict motor vehicle
248 certificate application as required; does not obtain a legible
249 copy of the seller's or owner's valid driver's license or
250 identification card when required; does not make the required
251 notification to the department; or destroys or dismantles a
252 derelict motor vehicle without waiting the required time as set
253 forth in subparagraph 2. commits a felony of the third degree,
254 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

255 (3)(a)1. As used in this section, a motor vehicle or
256 mobile home is a "total loss":

257 a. When an insurance company pays the vehicle owner to
258 replace the wrecked or damaged vehicle with one of like kind and
259 quality or when an insurance company pays the owner upon the
260 theft of the motor vehicle or mobile home; or

261 b. When an uninsured or self-insured motor vehicle or
262 mobile home is wrecked or damaged and the cost, at the time of
263 loss, of repairing or rebuilding the vehicle is 80 percent or
264 more of the cost to the owner of replacing the wrecked or
265 damaged motor vehicle or mobile home with one of like kind and
266 quality.

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267 2. A motor vehicle or mobile home shall not be considered
268 a "total loss" if the insurance company and owner of a motor
269 vehicle or mobile home agree to repair, rather than to replace,
270 the motor vehicle or mobile home. However, if the actual cost to
271 repair the motor vehicle or mobile home to the insurance company
272 exceeds 100 percent of the cost of replacing the wrecked or
273 damaged motor vehicle or mobile home with one of like kind and
274 quality, the owner shall forward to the department, within 72
275 hours after the agreement, a request to brand the certificate of
276 title with the words "Total Loss Vehicle." Such a brand shall
277 become a part of the vehicle's title history.

278 (b) The owner, including ~~persons who are~~ self-insured
279 entities, of any motor vehicle or mobile home which is
280 considered to be salvage shall, within 72 hours after the motor
281 vehicle or mobile home becomes salvage, forward the title to the
282 motor vehicle or mobile home to the department for processing.
283 However, an insurance company which pays money as compensation
284 for total loss of a motor vehicle or mobile home shall obtain
285 the certificate of title for the motor vehicle or mobile home
286 and, within 72 hours after receiving such certificate of title,
287 shall forward such title to the department for processing and
288 make the required notification to the National Motor Vehicle
289 Title Information System. The owner, ~~or~~ insurance company, or
290 self-insured entity as the case may be, may not dispose of a
291 vehicle or mobile home that is a total loss before it has
292 obtained a salvage certificate of title or certificate of
293 destruction from the department. When applying for a salvage
294 certificate of title or certificate of destruction, the owner,

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295 ~~or~~ insurance company, or self-insured entity must provide the
296 department with an estimate of the costs of repairing the
297 physical and mechanical damage suffered by the vehicle for which
298 a salvage certificate of title or certificate of destruction is
299 sought. If the estimated costs of repairing the physical and
300 mechanical damage to the vehicle are equal to 80 percent or more
301 of the current retail cost of the vehicle, as established in any
302 official used car or used mobile home guide, the department
303 shall declare the vehicle unrebuildable and print a certificate
304 of destruction, which authorizes the dismantling or destruction
305 of the motor vehicle or mobile home described therein by a
306 licensed salvage motor vehicle dealer. However, if the damaged
307 motor vehicle is equipped with custom-lowered floors for
308 wheelchair access or a wheelchair lift, the insurance company
309 may, upon determining that the vehicle is repairable to a
310 condition that is safe for operation on public roads, submit the
311 certificate of title to the department for reissuance as a
312 salvage rebuildable title and the addition of a title brand of
313 "insurance-declared total loss." The certificate of destruction
314 shall be reassignable a maximum of two times before dismantling
315 or destruction of the vehicle shall be required, and shall
316 accompany the motor vehicle or mobile home for which it is
317 issued, when such motor vehicle or mobile home is sold for such
318 purposes, in lieu of a certificate of title, and, thereafter,
319 the department shall refuse issuance of any certificate of title
320 for that vehicle. Nothing in this subsection shall be applicable
321 when a vehicle is worth less than \$1,500 retail in undamaged
322 condition in any official used motor vehicle guide or used

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323 mobile home guide or when a stolen motor vehicle or mobile home
324 is recovered in substantially intact condition with all major
325 component parts present and is readily resalable without
326 extensive repairs ~~to or replacement of the frame or engine~~. Any
327 person who knowingly violates this paragraph or falsifies any
328 document to avoid the requirements of this paragraph commits a
329 misdemeanor of the first degree, punishable as provided in s.
330 775.082 or s. 775.083.

331 (7) (a) In the event of a purchase by a secondary metals
332 recycler, that has been issued a certificate of registration
333 number, of:

334 1. Materials, prepared materials, or parts from any seller
335 for purposes other than the processing of such materials,
336 prepared materials, or parts, the purchaser shall obtain such
337 documentation as may be required by this section and shall
338 record the seller's name and address, date of purchase, and the
339 personal identification card number of the person delivering
340 such items.

341 2. Parts or prepared materials from any seller for
342 purposes of the processing of such parts or prepared materials,
343 the purchaser shall record the seller's name and address and
344 date of purchase and, in the event of a purchase transaction
345 consisting primarily of parts or prepared materials, the
346 personal identification card number of the person delivering
347 such items.

348 3. Materials from another secondary metals recycler for
349 purposes of the processing of such materials, the purchaser
350 shall record the seller's name and address and date of purchase.

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351 4.a. Motor vehicles, recreational vehicles, mobile homes,
352 or derelict motor vehicles from other than a secondary metals
353 recycler for purposes of the processing of such motor vehicles,
354 recreational vehicles, mobile homes, or derelict motor vehicles,
355 the purchaser shall record the date of purchase and the name,
356 address, and personal identification card number of the person
357 selling such items and shall obtain the following documentation
358 from the seller with respect to each item purchased:

359 (I) A valid certificate of title issued in the name of the
360 seller or properly endorsed, as required in s. 319.22, over to
361 the seller;

362 (II) A valid salvage certificate of title issued in the
363 name of the seller or properly endorsed, as required in s.
364 319.22, over to the seller;

365 (III) A valid certificate of destruction issued in the
366 name of the seller or properly endorsed over to the seller; or

367 (IV) A valid derelict motor vehicle certificate obtained
368 from the department by a licensed salvage motor vehicle dealer
369 and properly reassigned to the secondary metals recycler.

370 b. If a valid certificate of title, salvage certificate of
371 title, certificate of destruction, or derelict motor vehicle
372 certificate is not available and the motor vehicle or mobile
373 home is a derelict motor vehicle, a derelict motor vehicle
374 certificate application shall be completed by the seller or
375 owner of the motor vehicle or mobile home, the seller's or
376 owner's authorized transporter, and the registered secondary
377 metals recycler at the time of sale, transport, or delivery to
378 the registered secondary metals recycler to obtain a derelict

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379 motor vehicle certificate from the department. The derelict
380 motor vehicle certificate application must be accompanied by a
381 legible copy of the seller's or owner's valid Florida driver's
382 license or Florida identification card, or a valid driver's
383 license or identification card from another state. If the seller
384 is not the owner of record of the vehicle being sold, the
385 recycler shall, at the time of sale, ensure that a smudge-free
386 right thumbprint, or other digit if the seller has no right
387 thumb, of the seller is imprinted upon the derelict motor
388 vehicle certificate application and that the legible copy of the
389 seller's driver's license or identification card is affixed to
390 the application and transmitted to the department. The derelict
391 motor vehicle certificate shall be used by the owner, the
392 owner's authorized transporter, and the registered secondary
393 metals recycler. The registered secondary metals recycler shall
394 secure the derelict motor vehicle for 3 full business days,
395 excluding weekends and holidays, if there is no active lien or a
396 lien of 3 years or more on the department's records before
397 destroying or dismantling the derelict motor vehicle and shall
398 follow all reporting procedures established by the department,
399 including electronic notification to the department or delivery
400 of the original derelict motor vehicle certificate application
401 to an agent of the department within 24 hours after receiving
402 the derelict motor vehicle. If there is an active lien of less
403 than 3 years on the derelict motor vehicle, the registered
404 secondary metals recycler shall secure the derelict motor
405 vehicle for 10 days. The department shall notify the lienholder
406 of the application for a derelict motor vehicle certificate and

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407 shall notify the lienholder of its intention to remove the lien.
408 Ten days after receipt of the motor vehicle derelict
409 application, the department may remove the lien from its records
410 if a written statement protesting removal of the lien is not
411 received by the department from the lienholder within the 10-day
412 period. However, if the lienholder files with the department and
413 the registered secondary metals recycler within the 10-day
414 period a written statement that the lien is still outstanding,
415 the department shall not remove the lien and shall place an
416 administrative hold on the record for 30 days to allow the
417 lienholder to apply for title to the vehicle or a repossession
418 certificate under s. 319.28. The registered secondary metals
419 recycler must secure the derelict motor vehicle until the
420 department's administrative stop is removed, the lienholder
421 submits a lien satisfaction, or the lienholder takes possession
422 of the vehicle. The registered secondary metals recycler may
423 require the lienholder to reimburse them only for their purchase
424 price of derelict vehicle and shall not include any towing cost,
425 storage fees, administrative fees, or other cost.

426 c. Any person who knowingly violates this subparagraph by
427 selling, transporting, delivering, purchasing, or receiving a
428 motor vehicle, recreational motor vehicle, mobile home, or
429 derelict motor vehicle without obtaining a certificate of title,
430 salvage certificate of title, certificate of destruction, or
431 derelict motor vehicle certificate; enters false or fictitious
432 information on a derelict motor vehicle certificate application;
433 does not complete the derelict motor vehicle certificate
434 application as required or does not make the required

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435 notification to the department; does not obtain a legible copy
436 of the seller's or owner's driver's license or identification
437 card when required; or destroys or dismantles a derelict motor
438 vehicle without waiting the required time as set forth in sub-
439 subparagraph b. commits a felony of the third degree, punishable
440 as provided in s. 775.082, s. 775.083, or s. 775.084.

441 5. Major parts from other than a secondary metals recycler
442 for purposes of the processing of such major parts, the
443 purchaser shall record the seller's name, address, date of
444 purchase, and the personal identification card number of the
445 person delivering such items, as well as the vehicle
446 identification number, if available, of each major part
447 purchased.

448 (b) Any person who violates this subsection commits a
449 felony of the third degree, punishable as provided in s.
450 775.082, s. 775.083, or s. 775.084.

451 (8) (a) Secondary metals recyclers and salvage motor
452 vehicle dealers shall return to the department on a monthly
453 basis all certificates of title and salvage certificates of
454 title that are required by this section to be obtained.
455 Secondary metals recyclers and salvage motor vehicle dealers may
456 elect to notify the department electronically through procedures
457 established by the department when they receive each motor
458 vehicle or mobile home, salvage motor vehicle or mobile home, or
459 derelict motor vehicle with a certificate of title or salvage
460 certificate of title through procedures established by the
461 department. The department may adopt rules and establish fees as

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462 it deems necessary or proper for the administration of the
463 electronic notification service.

464 (b) Secondary metals recyclers and salvage motor vehicle
465 dealers shall keep originals, or a copy in the event the
466 original was returned to the department, of all certificates of
467 title, salvage certificates of title, certificates of
468 destruction, derelict motor vehicle certificates, proof of
469 reporting to the National Motor Vehicle Title Information
470 System, and all other information required by this section to be
471 recorded or obtained, on file in the offices of such secondary
472 metals recyclers or salvage motor vehicle dealers for a period
473 of 3 years after the date of purchase of the items reflected in
474 such certificates of title, salvage certificates of title,
475 certificates of destruction, or derelict motor vehicle
476 certificates. These records shall be maintained in chronological
477 order.

478 (c) Secondary metals recyclers and salvage motor vehicle
479 dealers shall on a monthly basis make the required notifications
480 on all junk, derelict motor vehicles, or salvage motor vehicles
481 that were obtained in whole or part to the National Motor
482 Vehicle Title Information System as required in 28 CFR Part 25.

483 (d)-(e) For the purpose of enforcement of this section, the
484 department or its agents and employees have the same right of
485 inspection as law enforcement officers as provided in s.
486 812.055.

487 (e)-(d) Whenever the department, its agent or employee, or
488 any law enforcement officer has reason to believe that a stolen
489 or fraudulently titled motor vehicle, mobile home, recreational

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490 vehicle, salvage motor vehicle, or derelict motor vehicle is in
491 the possession of a salvage motor vehicle dealer or secondary
492 metals recycler, the department, its agent or employee, or the
493 law enforcement officer may issue an extended hold notice, not
494 to exceed 5 additional business days, excluding weekends and
495 holidays, to the salvage motor vehicle dealer or registered
496 secondary metals recycler.

497 (f)~~(e)~~ Whenever a salvage motor vehicle dealer or
498 registered secondary metals recycler is notified by the
499 department, its agent or employee, or any law enforcement
500 officer to hold a motor vehicle, mobile home, recreational
501 vehicle, salvage motor vehicle, or derelict motor vehicle that
502 is believed to be stolen or fraudulently titled, the salvage
503 motor vehicle dealer or registered secondary metals recycler
504 shall hold the motor vehicle, mobile home, recreational vehicle,
505 salvage motor vehicle, or derelict motor vehicle and may not
506 dismantle or destroy the motor vehicle, mobile home,
507 recreational vehicle, salvage motor vehicle, or derelict motor
508 vehicle until it is recovered by a law enforcement officer, the
509 hold is released by the department or the law enforcement
510 officer placing the hold, or the 5 additional business days have
511 passed since being notified of the hold.

512 (g)~~(f)~~ This section does not authorize any person who is
513 engaged in the business of recovering, towing, or storing
514 vehicles pursuant to s. 713.78, and who is claiming a lien for
515 performing labor or services on a motor vehicle or mobile home
516 pursuant to s. 713.58, or is claiming that a motor vehicle or
517 mobile home has remained on any premises after tenancy has

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518 terminated pursuant to s. 715.104, to use a derelict motor
519 vehicle certificate application for the purpose of transporting,
520 selling, disposing of, or delivering a motor vehicle to a
521 salvage motor vehicle dealer or secondary metals recycler
522 without obtaining the title or certificate of destruction
523 required under s. 713.58, s. 713.78, or s. 715.104.

524 (h)~~(g)~~ The department shall accept all properly endorsed
525 and completed derelict motor vehicle certificate applications
526 and shall issue a derelict motor vehicle certificate having an
527 effective date that authorizes when a derelict motor vehicle is
528 eligible for dismantling or destruction. The electronic
529 information obtained from the derelict motor vehicle certificate
530 application shall be stored electronically and shall be made
531 available to authorized persons after issuance of the derelict
532 motor vehicle certificate in the Florida Real Time Vehicle
533 Information System.

534 (i)~~(h)~~ The department is authorized to adopt rules
535 pursuant to ss. 120.536(1) and 120.54 establishing policies and
536 procedures to administer and enforce this section.

537 (j)~~(i)~~ The department shall charge a fee of \$3 for each
538 derelict motor vehicle certificate delivered to the department
539 or one of its agents for processing and shall mark the title
540 record canceled. A service charge may be collected under s.
541 320.04.

542 (k)~~(j)~~ The licensed salvage motor vehicle dealer or
543 registered secondary metals recycler shall make all payments for
544 the purchase of any derelict motor vehicle that is sold by a
545 seller who is not the owner of record on file with the

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546 department by check or money order made payable to the seller
547 and may not make payment to the authorized transporter. The
548 licensed salvage motor vehicle dealer or registered secondary
549 metals recycler may not cash the check that such dealer or
550 recycler issued to the seller.

551 (9) (a) An insurance company may notify an independent
552 entity that obtains possession of a damaged or dismantled motor
553 vehicle to release the vehicle to the owner. The insurance
554 company shall provide the independent entity a release statement
555 on a form prescribed by the department authorizing the
556 independent entity to release the vehicle to the owner. The form
557 shall, at a minimum, contain the following:

- 558 1. The policy and claim number.
- 559 2. The name and address of the insured.
- 560 3. The vehicle identification number.
- 561 4. The signature of an authorized representative of the
562 insurance company.

563 (b) The independent entity in possession of a motor
564 vehicle must send a notice to the owner that the vehicle is
565 available for pick up when it receives a release statement from
566 the insurance company. The notice shall be sent by certified
567 mail to the owner at the owner's address reflected in the
568 department's records. The notice must inform the owner that the
569 owner has 30 days after receipt of the notice to pick up the
570 vehicle from the independent entity. If the motor vehicle is not
571 claimed within 30 days after the owner receives the notice, the
572 independent entity may apply for a certificate of destruction or
573 a certificate of title.

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574 (c) The independent entity shall make the required
575 notification to the National Motor Vehicle Title Information
576 System before releasing any damaged or dismantled motor vehicle
577 to the owner or before applying for a certificate of destruction
578 or salvage certificate of title.

579 (d)~~(e)~~ Upon applying for a certificate of destruction or
580 salvage certificate of title, the independent entity shall
581 provide a copy of the release statement from the insurance
582 company to the independent entity, proof of providing the 30-day
583 notice to the owner, proof of notification to the National Motor
584 Vehicle Title Information System, and applicable fees.

585 (e)~~(d)~~ The independent entity may not charge an owner of
586 the vehicle storage fees or apply for a title under s. 713.585
587 or s. 713.78.

588 (11) All salvage motor vehicle dealers, secondary metals
589 recyclers, auctions, independent entities, or self-insured
590 entities that deal in salvage motor vehicles as defined in this
591 section must be registered with the National Motor Vehicle Title
592 Information System and shall be required to provide their
593 registration number before being licensed by the department or
594 before processing any certificate of title, salvage certificate
595 of title, certificate of destruction or derelict certificate by
596 the department.

597 (12)~~(11)~~ Except as otherwise provided in this section, any
598 person who violates this section commits a felony of the third
599 degree, punishable as provided in s. 775.082, s. 775.083, or s.
600 775.084.

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601 Section 63. Subsections (1), (2), (3), (4), (9), and (13)
602 of section 713.585, Florida Statutes, are amended to read:

603 713.585 Enforcement of lien by sale of motor vehicle.—A
604 person claiming a lien under s. 713.58 for performing labor or
605 services on a motor vehicle may enforce such lien by sale of the
606 vehicle in accordance with the following procedures:

607 (1) The lienor must give notice, by certified mail, return
608 receipt requested, within 15 business days, excluding Saturday
609 and Sunday, from the beginning date of the assessment of storage
610 charges on said motor vehicle, to the registered owner of the
611 vehicle, to the customer as indicated on the order for repair,
612 and to all other persons claiming an interest in or lien
613 thereon, as disclosed by the records of the Department of
614 Highway Safety and Motor Vehicles or ~~of a~~ as disclosed by the
615 records of any corresponding agency of any other state in which
616 the vehicle is identified through a records check of the
617 National Motor Vehicle Title Information System, as being the
618 current state where the vehicle is titled. ~~appears registered.~~

619 Such notice must contain:

620 (a) A description of the vehicle (year, make, vehicle
621 identification number) and its location.

622 (b) The name and address of the owner of the vehicle, the
623 customer as indicated on the order for repair, and any person
624 claiming an interest in or lien thereon.

625 (c) The name, address, and telephone number of the lienor.

626 (d) Notice that the lienor claims a lien on the vehicle
627 for labor and services performed and storage charges, if any,
628 and the cash sum which, if paid to the lienor, would be

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629 sufficient to redeem the vehicle from the lien claimed by the
630 lienor.

631 (e) Notice that the lien claimed by the lienor is subject
632 to enforcement pursuant to this section and that the vehicle may
633 be sold to satisfy the lien.

634 (f) If known, the date, time, and location of any proposed
635 or scheduled sale of the vehicle. No vehicle may be sold earlier
636 than 60 days after completion of the repair work.

637 (g) Notice that the owner of the vehicle or any person
638 claiming an interest in or lien thereon has a right to a hearing
639 at any time prior to the scheduled date of sale by filing a
640 demand for hearing with the clerk of the circuit court in the
641 county in which the vehicle is held and mailing copies of the
642 demand for hearing to all other owners and lienors as reflected
643 on the notice.

644 (h) Notice that the owner of the vehicle has a right to
645 recover possession of the vehicle without instituting judicial
646 proceedings by posting bond in accordance with the provisions of
647 s. 559.917.

648 (i) Notice that any proceeds from the sale of the vehicle
649 remaining after payment of the amount claimed to be due and
650 owing to the lienor will be deposited with the clerk of the
651 circuit court for disposition upon court order pursuant to
652 subsection (8).

653 (2) If attempts to locate the owner or lienholder are
654 unsuccessful after a check of the records of the Department of
655 Highway Safety and Motor Vehicles and any state disclosed by the
656 check of the National Motor Vehicle Title Information System,

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657 the lienor must notify the local law enforcement agency in
658 writing by certified mail or acknowledged hand delivery that the
659 lienor has been unable to locate the owner or lienholder, that a
660 physical search of the vehicle has disclosed no ownership
661 information, and that a good faith effort, including records
662 checks of the Department of Highway Safety and Motor Vehicles
663 database and the National Motor Vehicle Title Information System
664 have ~~has~~ been made. A description of the motor vehicle which
665 includes the year, make, and identification number must be given
666 on the notice. This notification must take place within 15
667 business days, excluding Saturday and Sunday, from the beginning
668 date of the assessment of storage charges on said motor vehicle.
669 For purposes of this paragraph, the term "good faith effort"
670 means that the following checks have been performed by the
671 company to establish the prior state of registration and title:
672 (a) A check of the Department of Highway Safety and Motor
673 Vehicles database for the owner and any lienholder.
674 (b) A check of the federally mandated electronic National
675 Motor Vehicle Title Information System to determine the state of
676 registration when there is not a current title or registration
677 record for the vehicle on file with the Department of Highway
678 Safety and Motor Vehicles.
679 (c) ~~(a)~~ A check of vehicle for any type of tag, tag record,
680 temporary tag, or regular tag;
681 (d) ~~(b)~~ A check of vehicle for inspection sticker or other
682 stickers and decals that could indicate the state of possible
683 registration; and

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684 ~~(e)-(e)~~ A check of the interior of the vehicle for any
685 papers that could be in the glove box, trunk, or other areas for
686 the state of registration.

687 (3) If the date of the sale was not included in the notice
688 required in subsection (1), notice of the sale must be sent by
689 certified mail, return receipt requested, not less than 15 days
690 before the date of sale, to the customer as indicated on the
691 order for repair, and to all other persons claiming an interest
692 in or lien on the motor vehicle, as disclosed by the records of
693 the Department of Highway Safety and Motor Vehicles or of a
694 corresponding agency of any other state in which the vehicle
695 appears to have been registered after completion of a check of
696 the National Motor Vehicle Title Information System. ~~After~~
697 ~~diligent search and inquiry, if the name and address of the~~
698 ~~registered owner or the owner of the recorded lien cannot be~~
699 ~~ascertained, the requirements for this notice may be~~
700 ~~disregarded.~~

701 (4) The lienor, at least 15 days before the proposed or
702 scheduled date of sale of the vehicle, shall publish the notice
703 required by this section once in a newspaper circulated in the
704 county where the vehicle is held. A certificate of compliance
705 with the notification provisions of this section, verified by
706 the lienor, together with a copy of the notice and return
707 receipt for mailing of the notice required by this section, ~~and~~
708 proof of publication, and checks of the Department of Highway
709 Safety and Motor Vehicles and the National Motor Vehicle Title
710 Information System, must be duly and expeditiously filed with
711 the clerk of the circuit court in the county where the vehicle

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712 is held. The lienor, at the time of filing the certificate of
713 compliance, must pay to the clerk of that court a service charge
714 of \$10 for indexing and recording the certificate.

715 (9) A copy of the certificate of compliance and the report
716 of sale, certified by the clerk of the court, and proof of the
717 required check of the National Motor Vehicle Title Information
718 System shall constitute satisfactory proof for application to
719 the Department of Highway Safety and Motor Vehicles for transfer
720 of title, together with any other proof required by any rules
721 and regulations of the department.

722 (13) A failure to make good faith efforts as defined in
723 subsection (2) precludes the imposition of any storage charges
724 against the vehicle. If a lienor fails to provide notice to any
725 person claiming a lien on a vehicle under subsection (1) within
726 15 business days after the assessment of storage charges have
727 begun, then the lienor is precluded from charging for more than
728 15 days of storage, but failure to provide timely notice does
729 not affect charges made for repairs, adjustments, or
730 modifications to the vehicle or the priority of liens on the
731 vehicle.

732 Section 64. Section 713.78, Florida Statutes, is amended
733 to read:

734 713.78 Liens for recovering, towing, or storing vehicles
735 and vessels.—

736 (1) For the purposes of this section, the term:

737 (a) "Vehicle" means any mobile item, whether motorized or
738 not, which is mounted on wheels.

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739 (b) "Vessel" means every description of watercraft, barge,
740 and airboat used or capable of being used as a means of
741 transportation on water, other than a seaplane or a "documented
742 vessel" as defined in s. 327.02(9).

743 (c) "Wrecker" means any truck or other vehicle which is
744 used to tow, carry, or otherwise transport motor vehicles or
745 vessels upon the streets and highways of this state and which is
746 equipped for that purpose with a boom, winch, car carrier, or
747 other similar equipment.

748 (d) "National Motor Vehicle Title Information System"
749 means the Federally authorized electronic National Motor Vehicle
750 Title Information System.

751 (2) Whenever a person regularly engaged in the business of
752 transporting vehicles or vessels by wrecker, tow truck, or car
753 carrier recovers, removes, or stores a vehicle or vessel upon
754 instructions from:

755 (a) The owner thereof;

756 (b) The owner or lessor, or a person authorized by the
757 owner or lessor, of property on which such vehicle or vessel is
758 wrongfully parked, and the removal is done in compliance with s.
759 715.07; ~~or~~

760 (c) The landlord or a person authorized by the landlord,
761 when such motor vehicle or vessel remained on premises after
762 tenancy terminated and the removal is done in compliance with
763 S.715.104; or

764 (d) ~~(e)~~ Any law enforcement agency,
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766 she or he shall have a lien on the vehicle or vessel for a
767 reasonable towing fee and for a reasonable storage fee; except
768 that no storage fee shall be charged if the vehicle is stored
769 for less than 6 hours.

770 (3) This section does not authorize any person to claim a
771 lien on a vehicle for fees or charges connected with the
772 immobilization of such vehicle using a vehicle boot or other
773 similar device pursuant to s. 715.07.

774 (4) (a) Any person regularly engaged in the business of
775 recovering, towing, or storing vehicles or vessels who comes
776 into possession of a vehicle or vessel pursuant to subsection
777 (2), and who claims a lien for recovery, towing, or storage
778 services, shall give notice to the registered owner, the
779 insurance company insuring the vehicle notwithstanding the
780 provisions of s. 627.736, and to all persons claiming a lien
781 thereon, as disclosed by the records in the Department of
782 Highway Safety and Motor Vehicles or as disclosed by the records
783 of any ~~of a~~ corresponding agency in any other state in which the
784 vehicle is identified through a records check of the National
785 Motor Vehicle Title Information System, as being titled or
786 registered.

787 (b) Whenever any law enforcement agency authorizes the
788 removal of a vehicle or vessel or whenever any towing service,
789 garage, repair shop, or automotive service, storage, or parking
790 place notifies the law enforcement agency of possession of a
791 vehicle or vessel pursuant to s. 715.07(2)(a)2., the law
792 enforcement agency of the jurisdiction where the vehicle or
793 vessel is stored shall contact the Department of Highway Safety

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794 and Motor Vehicles, or the appropriate agency of the state of
795 registration, if known, within 24 hours through the medium of
796 electronic communications, giving the full description of the
797 vehicle or vessel. Upon receipt of the full description of the
798 vehicle or vessel, the department shall search its files to
799 determine the owner's name, the insurance company insuring the
800 vehicle or vessel, and whether any person has filed a lien upon
801 the vehicle or vessel as provided in s. 319.27(2) and (3) and
802 notify the applicable law enforcement agency within 72 hours.
803 The person in charge of the towing service, garage, repair shop,
804 or automotive service, storage, or parking place shall obtain
805 such information from the applicable law enforcement agency
806 within 5 days after the date of storage and shall give notice
807 pursuant to paragraph (a). The department may release the
808 insurance company information to the requestor notwithstanding
809 the provisions of s. 627.736.

810 (c) Notice by certified mail shall be sent within 7
811 business days after the date of storage of the vehicle or vessel
812 to the registered owner, the insurance company insuring the
813 vehicle notwithstanding the provisions of s. 627.736, and all
814 persons of record claiming a lien against the vehicle or vessel.
815 It shall state the fact of possession of the vehicle or vessel,
816 that a lien as provided in subsection (2) is claimed, that
817 charges have accrued and the amount thereof, that the lien is
818 subject to enforcement pursuant to law, and that the owner or
819 lienholder, if any, has the right to a hearing as set forth in
820 subsection (5), and that any vehicle or vessel which remains
821 unclaimed, or for which the charges for recovery, towing, or

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822 storage services remain unpaid, may be sold free of all prior
823 liens after 35 days if the vehicle or vessel is more than 3
824 years of age or after 50 days if the vehicle or vessel is 3
825 years of age or less.

826 (d) If attempts to locate the name and address of the
827 owner or lienholder prove unsuccessful, the towing-storage
828 operator shall, after 7 working days, excluding Saturday and
829 Sunday, of the initial tow or storage, notify the public agency
830 of jurisdiction where the vehicle or vessel is stored in writing
831 by certified mail or acknowledged hand delivery that the towing-
832 storage company has been unable to locate the name and address
833 of the owner or lienholder and a physical search of the vehicle
834 or vessel has disclosed no ownership information and a good
835 faith effort has been made including records checks of the
836 Florida Department of Highway Safety and Motor Vehicle and the
837 National Motor Vehicle Title Information System databases. For
838 purposes of this paragraph and subsection (9), "good faith
839 effort" means that the following checks have been performed by
840 the company to establish prior state of registration and for
841 title:

842 1. A check of the Florida Department of Highway Safety and
843 Motor Vehicles database for the owner and any lien holder.

844 2. A check of the electronic National Motor Vehicle Title
845 Information System to determine the state of registration when
846 there is not a current registration record for the vehicle on
847 file with the Florida Department of Highway Safety and Motor
848 Vehicles.

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849 ~~3.1.~~ Check of vehicle or vessel for any type of tag, tag
850 record, temporary tag, or regular tag.

851 ~~4.2.~~ Check of law enforcement report for tag number or
852 other information identifying the vehicle or vessel, if the
853 vehicle or vessel was towed at the request of a law enforcement
854 officer.

855 ~~5.3.~~ Check of trip sheet or tow ticket of tow truck
856 operator to see if a tag was on vehicle or vessel at beginning
857 of tow, if private tow.

858 ~~6.4.~~ If there is no address of the owner on the impound
859 report, check of law enforcement report to see if an out-of-
860 state address is indicated from driver license information.

861 ~~7.5.~~ Check of vehicle or vessel for inspection sticker or
862 other stickers and decals that may indicate a state of possible
863 registration.

864 ~~8.6.~~ Check of the interior of the vehicle or vessel for
865 any papers that may be in the glove box, trunk, or other areas
866 for a state of registration.

867 ~~9.7.~~ Check of vehicle for vehicle identification number.

868 ~~10.8.~~ Check of vessel for vessel registration number.

869 ~~11.9.~~ Check of vessel hull for a hull identification
870 number which should be carved, burned, stamped, embossed, or
871 otherwise permanently affixed to the outboard side of the
872 transom or, if there is no transom, to the outmost seaboard side
873 at the end of the hull that bears the rudder or other steering
874 mechanism.

875 (5) (a) The owner of a vehicle or vessel removed pursuant
876 to the provisions of subsection (2), or any person claiming a

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877 lien, other than the towing-storage operator, within 10 days
878 after the time she or he has knowledge of the location of the
879 vehicle or vessel, may file a complaint in the county court of
880 the county in which the vehicle or vessel is stored to determine
881 if her or his property was wrongfully taken or withheld from her
882 or him.

883 (b) Upon filing of a complaint, an owner or lienholder may
884 have her or his vehicle or vessel released upon posting with the
885 court a cash or surety bond or other adequate security equal to
886 the amount of the charges for towing or storage and lot rental
887 amount to ensure the payment of such charges in the event she or
888 he does not prevail. Upon the posting of the bond and the
889 payment of the applicable fee set forth in s. 28.24, the clerk
890 of the court shall issue a certificate notifying the lienor of
891 the posting of the bond and directing the lienor to release the
892 vehicle or vessel. At the time of such release, after reasonable
893 inspection, she or he shall give a receipt to the towing-storage
894 company reciting any claims she or he has for loss or damage to
895 the vehicle or vessel or the contents thereof.

896 (c) Upon determining the respective rights of the parties,
897 the court may award damages, attorney's fees, and costs in favor
898 of the prevailing party. In any event, the final order shall
899 provide for immediate payment in full of recovery, towing, and
900 storage fees by the vehicle or vessel owner or lienholder; or
901 the agency ordering the tow; or the owner, lessee, or agent
902 thereof of the property from which the vehicle or vessel was
903 removed.

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904 (6) Any vehicle or vessel which is stored pursuant to
905 subsection (2) and which remains unclaimed, or for which
906 reasonable charges for recovery, towing, or storing remain
907 unpaid, and any contents not released pursuant to subsection
908 (10), may be sold by the owner or operator of the storage space
909 for such towing or storage charge after 35 days from the time
910 the vehicle or vessel is stored therein if the vehicle or vessel
911 is more than 3 years of age or after 50 days following the time
912 the vehicle or vessel is stored therein if the vehicle or vessel
913 is 3 years of age or less. The sale shall be at public sale for
914 cash. If the date of the sale was not included in the notice
915 required in subsection (4), notice of the sale shall be given to
916 the person in whose name the vehicle or vessel is registered and
917 to all persons claiming a lien on the vehicle or vessel as shown
918 on the records of the Department of Highway Safety and Motor
919 Vehicles or of any ~~the~~ corresponding agency in any other state
920 in which the vehicle is identified through a records check of
921 the National Motor Vehicle Title Information System, as being
922 titled. Notice shall be sent by certified mail to the owner of
923 the vehicle or vessel and the person having the recorded lien on
924 the vehicle or vessel at the address shown on the records of the
925 registering agency and shall be mailed not less than 15 days
926 before the date of the sale. After diligent search and inquiry,
927 if the name and address of the registered owner or the owner of
928 the recorded lien cannot be ascertained, the requirements of
929 notice by mail may be dispensed with. In addition to the notice
930 by mail, public notice of the time and place of sale shall be
931 made by publishing a notice thereof one time, at least 10 days

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932 prior to the date of the sale, in a newspaper of general
933 circulation in the county in which the sale is to be held. The
934 proceeds of the sale, after payment of reasonable towing and
935 storage charges, and costs of the sale, in that order of
936 priority, shall be deposited with the clerk of the circuit court
937 for the county if the owner or lienholder is absent, and the
938 clerk shall hold such proceeds subject to the claim of the owner
939 or lienholder legally entitled thereto. The clerk shall be
940 entitled to receive 5 percent of such proceeds for the care and
941 disbursement thereof. The certificate of title issued under this
942 law shall be discharged of all liens unless otherwise provided
943 by court order. The owner or lienholder may file a complaint
944 after the vehicle or vessel has been sold in the county court of
945 the county in which it is stored. Upon determining the
946 respective rights of the parties, the court may award damages,
947 attorney's fees, and costs in favor of the prevailing party.

948 (7) (a) A wrecker operator recovering, towing, or storing
949 vehicles or vessels is not liable for damages connected with
950 such services, theft of such vehicles or vessels, or theft of
951 personal property contained in such vehicles or vessels,
952 provided that such services have been performed with reasonable
953 care and provided, further, that, in the case of removal of a
954 vehicle or vessel upon the request of a person purporting, and
955 reasonably appearing, to be the owner or lessee, or a person
956 authorized by the owner or lessee, of the property from which
957 such vehicle or vessel is removed, such removal has been done in
958 compliance with s. 715.07. Further, a wrecker operator is not
959 liable for damage to a vehicle, vessel, or cargo that obstructs

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960 the normal movement of traffic or creates a hazard to traffic
961 and is removed in compliance with the request of a law
962 enforcement officer.

963 (b) For the purposes of this subsection, a wrecker
964 operator is presumed to use reasonable care to prevent the theft
965 of a vehicle or vessel or of any personal property contained in
966 such vehicle stored in the wrecker operator's storage facility
967 if all of the following apply:

968 1. The wrecker operator surrounds the storage facility
969 with a chain-link or solid-wall type fence at least 6 feet in
970 height;

971 2. The wrecker operator has illuminated the storage
972 facility with lighting of sufficient intensity to reveal persons
973 and vehicles at a distance of at least 150 feet during
974 nighttime; and

975 3. The wrecker operator uses one or more of the following
976 security methods to discourage theft of vehicles or vessels or
977 of any personal property contained in such vehicles or vessels
978 stored in the wrecker operator's storage facility:

979 a. A night dispatcher or watchman remains on duty at the
980 storage facility from sunset to sunrise;

981 b. A security dog remains at the storage facility from
982 sunset to sunrise;

983 c. Security cameras or other similar surveillance devices
984 monitor the storage facility; or

985 d. A security guard service examines the storage facility
986 at least once each hour from sunset to sunrise.

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987 (c) Any law enforcement agency requesting that a motor
988 vehicle be removed from an accident scene, street, or highway
989 must conduct an inventory and prepare a written record of all
990 personal property found in the vehicle before the vehicle is
991 removed by a wrecker operator. However, if the owner or driver
992 of the motor vehicle is present and accompanies the vehicle, no
993 inventory by law enforcement is required. A wrecker operator is
994 not liable for the loss of personal property alleged to be
995 contained in such a vehicle when such personal property was not
996 identified on the inventory record prepared by the law
997 enforcement agency requesting the removal of the vehicle.

998 (8) A person regularly engaged in the business of
999 recovering, towing, or storing vehicles or vessels, except a
1000 person licensed under chapter 493 while engaged in
1001 "repossession" activities as defined in s. 493.6101, may not
1002 operate a wrecker, tow truck, or car carrier unless the name,
1003 address, and telephone number of the company performing the
1004 service is clearly printed in contrasting colors on the driver
1005 and passenger sides of its vehicle. The name must be in at least
1006 3-inch permanently affixed letters, and the address and
1007 telephone number must be in at least 1-inch permanently affixed
1008 letters.

1009 (9) Failure to make good faith best efforts to comply with
1010 the notice requirements of this section shall preclude the
1011 imposition of any storage charges against such vehicle or
1012 vessel.

1013 (10) Persons who provide services pursuant to this section
1014 shall permit vehicle or vessel owners, lienholders, insurance

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1015 company representatives, or their agents, which agency is
1016 evidenced by an original writing acknowledged by the owner
1017 before a notary public or other person empowered by law to
1018 administer oaths, to inspect the towed vehicle or vessel and
1019 shall release to the owner, lienholder, or agent the vehicle,
1020 vessel, or all personal property not affixed to the vehicle or
1021 vessel which was in the vehicle or vessel at the time the
1022 vehicle or vessel came into the custody of the person providing
1023 such services.

1024 (11) (a) Any person regularly engaged in the business of
1025 recovering, towing, or storing vehicles or vessels who comes
1026 into possession of a vehicle or vessel pursuant to subsection
1027 (2) and who has complied with the provisions of subsections (3)
1028 and (6), when such vehicle or vessel is to be sold for purposes
1029 of being dismantled, destroyed, or changed in such manner that
1030 it is not the motor vehicle or vessel described in the
1031 certificate of title, shall report the vehicle to the National
1032 Motor Vehicle Title Information System and apply to the
1033 Department of Highway Safety and Motor Vehicles ~~county tax~~
1034 ~~collector~~ for a certificate of destruction. A certificate of
1035 destruction, which authorizes the dismantling or destruction of
1036 the vehicle or vessel described therein, shall be reassignable a
1037 maximum of two times before dismantling or destruction of the
1038 vehicle shall be required, and shall accompany the vehicle or
1039 vessel for which it is issued, when such vehicle or vessel is
1040 sold for such purposes, in lieu of a certificate of title. The
1041 application for a certificate of destruction must include proof
1042 of reporting to the National Motor Vehicle Information System

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1043 and an affidavit from the applicant that it has complied with
1044 all applicable requirements of this section and, if the vehicle
1045 or vessel is not registered in this state or any other state, by
1046 a statement from a law enforcement officer that the vehicle or
1047 vessel is not reported stolen, and shall be accompanied by such
1048 documentation as may be required by the department.

1049 (b) The Department of Highway Safety and Motor Vehicles
1050 shall charge a fee of \$3 for each certificate of destruction. A
1051 service charge of \$4.25 shall be collected and retained by the
1052 tax collector who processes the application.

1053 (c) The Department of Highway Safety and Motor Vehicles
1054 may adopt such rules as it deems necessary or proper for the
1055 administration of this subsection.

1056 (12) (a) Any person who violates any provision of
1057 subsection (1), subsection (2), subsection (4), subsection (5),
1058 subsection (6), or subsection (7) is guilty of a misdemeanor of
1059 the first degree, punishable as provided in s. 775.082 or s.
1060 775.083.

1061 (b) Any person who violates the provisions of subsections
1062 (8) through (11) is guilty of a felony of the third degree,
1063 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1064 (c) Any person who uses a false or fictitious name, gives
1065 a false or fictitious address, or makes any false statement in
1066 any application or affidavit required under the provisions of
1067 this section is guilty of a felony of the third degree,
1068 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1069 (d) Employees of the Department of Highway Safety and
1070 Motor Vehicles and law enforcement officers are authorized to

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1071 inspect the records of any person regularly engaged in the
1072 business of recovering, towing, or storing vehicles or vessels
1073 or transporting vehicles or vessels by wrecker, tow truck, or
1074 car carrier, to ensure compliance with the requirements of this
1075 section. Any person who fails to maintain records, or fails to
1076 produce records when required in a reasonable manner and at a
1077 reasonable time, commits a misdemeanor of the first degree,
1078 punishable as provided in s. 775.082 or s. 775.083.

1079 (13) (a) Upon receipt by the Department of Highway Safety
1080 and Motor Vehicles of written notice from a wrecker operator who
1081 claims a wrecker operator's lien under paragraph (2) (c) or
1082 paragraph (2) (d) for recovery, towing, or storage of an
1083 abandoned vehicle or vessel upon instructions from any law
1084 enforcement agency, for which a certificate of destruction has
1085 been issued under subsection (11) and the vehicle has been
1086 reported to the National Motor Vehicle Title Information System,
1087 the department shall place the name of the registered owner of
1088 that vehicle or vessel on the list of those persons who may not
1089 be issued a license plate or revalidation sticker for any motor
1090 vehicle under s. 320.03(8). If the vehicle or vessel is owned
1091 jointly by more than one person, the name of each registered
1092 owner shall be placed on the list. The notice of wrecker
1093 operator's lien shall be submitted on forms provided by the
1094 department, which must include:

1095 1. The name, address, and telephone number of the wrecker
1096 operator.

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1097 2. The name of the registered owner of the vehicle or
1098 vessel and the address to which the wrecker operator provided
1099 notice of the lien to the registered owner under subsection (4).

1100 3. A general description of the vehicle or vessel,
1101 including its color, make, model, body style, and year.

1102 4. The vehicle identification number (VIN); registration
1103 license plate number, state, and year; validation decal number,
1104 state, and year; vessel registration number; hull identification
1105 number; or other identification number, as applicable.

1106 5. The name of the person or the corresponding law
1107 enforcement agency that requested that the vehicle or vessel be
1108 recovered, towed, or stored.

1109 6. The amount of the wrecker operator's lien, not to
1110 exceed the amount allowed by paragraph (b).

1111 (b) For purposes of this subsection only, the amount of
1112 the wrecker operator's lien for which the department will
1113 prevent issuance of a license plate or revalidation sticker may
1114 not exceed the amount of the charges for recovery, towing, and
1115 storage of the vehicle or vessel for 7 days. These charges may
1116 not exceed the maximum rates imposed by the ordinances of the
1117 respective county or municipality under ss. 125.0103(1)(c) and
1118 166.043(1)(c). This paragraph does not limit the amount of a
1119 wrecker operator's lien claimed under subsection (2) or prevent
1120 a wrecker operator from seeking civil remedies for enforcement
1121 of the entire amount of the lien, but limits only that portion
1122 of the lien for which the department will prevent issuance of a
1123 license plate or revalidation sticker.

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1124 (c)1. The registered owner of a vehicle or vessel may
1125 dispute a wrecker operator's lien, by notifying the department
1126 of the dispute in writing on forms provided by the department,
1127 if at least one of the following applies:

1128 a. The registered owner presents a notarized bill of sale
1129 proving that the vehicle or vessel was sold in a private or
1130 casual sale before the vehicle or vessel was recovered, towed,
1131 or stored.

1132 b. The registered owner presents proof that the Florida
1133 certificate of title of the vehicle or vessel was sold to a
1134 licensed dealer as defined in s. 319.001 before the vehicle or
1135 vessel was recovered, towed, or stored.

1136 c. The records of the department were marked "sold" prior
1137 to the date of the tow.

1138
1139 If the registered owner's dispute of a wrecker operator's lien
1140 complies with one of these criteria, the department shall
1141 immediately remove the registered owner's name from the list of
1142 those persons who may not be issued a license plate or
1143 revalidation sticker for any motor vehicle under s. 320.03(8),
1144 thereby allowing issuance of a license plate or revalidation
1145 sticker. If the vehicle or vessel is owned jointly by more than
1146 one person, each registered owner must dispute the wrecker
1147 operator's lien in order to be removed from the list. However,
1148 the department shall deny any dispute and maintain the
1149 registered owner's name on the list of those persons who may not
1150 be issued a license plate or revalidation sticker for any motor
1151 vehicle under s. 320.03(8) if the wrecker operator has provided

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1152 the department with a certified copy of the judgment of a court
1153 which orders the registered owner to pay the wrecker operator's
1154 lien claimed under this section. In such a case, the amount of
1155 the wrecker operator's lien allowed by paragraph (b) may be
1156 increased to include no more than \$500 of the reasonable costs
1157 and attorney's fees incurred in obtaining the judgment. The
1158 department's action under this subparagraph is ministerial in
1159 nature, shall not be considered final agency action, and is
1160 appealable only to the county court for the county in which the
1161 vehicle or vessel was ordered removed.

1162 2. A person against whom a wrecker operator's lien has
1163 been imposed may alternatively obtain a discharge of the lien by
1164 filing a complaint, challenging the validity of the lien or the
1165 amount thereof, in the county court of the county in which the
1166 vehicle or vessel was ordered removed. Upon filing of the
1167 complaint, the person may have her or his name removed from the
1168 list of those persons who may not be issued a license plate or
1169 revalidation sticker for any motor vehicle under s. 320.03(8),
1170 thereby allowing issuance of a license plate or revalidation
1171 sticker, upon posting with the court a cash or surety bond or
1172 other adequate security equal to the amount of the wrecker
1173 operator's lien to ensure the payment of such lien in the event
1174 she or he does not prevail. Upon the posting of the bond and the
1175 payment of the applicable fee set forth in s. 28.24, the clerk
1176 of the court shall issue a certificate notifying the department
1177 of the posting of the bond and directing the department to
1178 release the wrecker operator's lien. Upon determining the

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1179 respective rights of the parties, the court may award damages
1180 and costs in favor of the prevailing party.

1181 3. If a person against whom a wrecker operator's lien has
1182 been imposed does not object to the lien, but cannot discharge
1183 the lien by payment because the wrecker operator has moved or
1184 gone out of business, the person may have her or his name
1185 removed from the list of those persons who may not be issued a
1186 license plate or revalidation sticker for any motor vehicle
1187 under s. 320.03(8), thereby allowing issuance of a license plate
1188 or revalidation sticker, upon posting with the clerk of court in
1189 the county in which the vehicle or vessel was ordered removed, a
1190 cash or surety bond or other adequate security equal to the
1191 amount of the wrecker operator's lien. Upon the posting of the
1192 bond and the payment of the application fee set forth in s.
1193 28.24, the clerk of the court shall issue a certificate
1194 notifying the department of the posting of the bond and
1195 directing the department to release the wrecker operator's lien.
1196 The department shall mail to the wrecker operator, at the
1197 address upon the lien form, notice that the wrecker operator
1198 must claim the security within 60 days, or the security will be
1199 released back to the person who posted it. At the conclusion of
1200 the 60 days, the department shall direct the clerk as to which
1201 party is entitled to payment of the security, less applicable
1202 clerk's fees.

1203 4. A wrecker operator's lien expires 5 years after filing.

1204 (d) Upon discharge of the amount of the wrecker operator's
1205 lien allowed by paragraph (b), the wrecker operator must issue a
1206 certificate of discharged wrecker operator's lien on forms

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1207 provided by the department to each registered owner of the
1208 vehicle or vessel attesting that the amount of the wrecker
1209 operator's lien allowed by paragraph (b) has been discharged.
1210 Upon presentation of the certificate of discharged wrecker
1211 operator's lien by the registered owner, the department shall
1212 immediately remove the registered owner's name from the list of
1213 those persons who may not be issued a license plate or
1214 revalidation sticker for any motor vehicle under s. 320.03(8),
1215 thereby allowing issuance of a license plate or revalidation
1216 sticker. Issuance of a certificate of discharged wrecker
1217 operator's lien under this paragraph does not discharge the
1218 entire amount of the wrecker operator's lien claimed under
1219 subsection (2), but only certifies to the department that the
1220 amount of the wrecker operator's lien allowed by paragraph (b),
1221 for which the department will prevent issuance of a license
1222 plate or revalidation sticker, has been discharged.

1223 (e) When a wrecker operator files a notice of wrecker
1224 operator's lien under this subsection, the department shall
1225 charge the wrecker operator a fee of \$2, which shall be
1226 deposited into the General Revenue Fund. A service charge of
1227 \$2.50 shall be collected and retained by the tax collector who
1228 processes a notice of wrecker operator's lien.

1229 (f) This subsection applies only to the annual renewal in
1230 the registered owner's birth month of a motor vehicle
1231 registration and does not apply to the transfer of a
1232 registration of a motor vehicle sold by a motor vehicle dealer
1233 licensed under chapter 320, except for the transfer of
1234 registrations which includes the annual renewals. This

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1235 subsection does not apply to any vehicle registered in the name
1236 of the lessor. This subsection does not affect the issuance of
1237 the title to a motor vehicle, notwithstanding s. 319.23(8)(b).

1238 (g) The Department of Highway Safety and Motor Vehicles
1239 may adopt rules pursuant to ss. 120.536(1) and 120.54 to
1240 implement this subsection.

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T I T L E A M E N D M E N T

1246

Remove line 214 and insert:

1247

provisions to changes made by the act; amending s. 319.30, F.S.;

1248

defining the terms "National Motor Vehicle Title Information

1249

System" and "Self-insured entity" in connection with the

1250

dismantling, destruction, change of identity of motor vehicles

1251

or mobile homes, and the salvage of such vehicles; permitting a

1252

licensed salvage motor vehicle dealer or a registered secondary

1253

metals recycler to seek reimbursement for the purchase price of

1254

a derelict vehicle from a lienholder and prohibiting the

1255

recovery of any other costs; including a self-insured motor

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vehicle or mobile home in the existing framework for determining

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a total loss vehicle; requiring a self-insured entity that is

1258

the owner of a motor vehicle or mobile home which is considered

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salvage to forward the title to the motor vehicle or mobile to

1260

the department for processing within 72 hours after the motor

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vehicle or mobile home becomes salvage; requiring an insurance

1262

company that pays money as compensation for a salvaged motor

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1263 vehicle or mobile home to obtain the certificate of title, and
1264 within 72 hours, forward the certificate of title to the
1265 department of processing and make the required notification to
1266 the National Motor Vehicle Title Information System; requiring a
1267 self-insured entity to provide the department with an estimate
1268 of the costs of repairing the physical and mechanical damage
1269 suffered by the vehicle for which a salvage certificate of title
1270 or certificate of destruction is sought; requiring that a
1271 vehicle for which a certificate of destruction is sought
1272 authorize the dismantling or destruction of the motor vehicle or
1273 mobile home by a licensed salvage motor vehicle dealer;
1274 requiring secondary metals recyclers and salvage motor vehicle
1275 dealers to keep an original, or a copy in the event the original
1276 was returned to the department, of proof of reporting to the
1277 National Motor Vehicle Title Information System, requiring
1278 secondary metals recyclers and salvage motor vehicle dealers to
1279 make certain reports on a monthly basis; requiring an
1280 independent entity to make notification to the National Motor
1281 Vehicle Title Information System before releasing any damaged or
1282 dismantled motor vehicle to the owner or before applying for a
1283 certificate of destruction or salvage certificate of title;
1284 requiring all salvage motor vehicle dealers, secondary metals
1285 recyclers, auctions, independent entities, or self-insured
1286 entities that operate in salvage motor vehicles under s. 319.30
1287 to register with the National Motor Vehicle Title Information
1288 System; amending s. 713.585, F.S.; requiring that a lienholder
1289 check the National Motor Vehicle Title Information System or the
1290 records of any corresponding agency of any other state before

COMMITTEE/SUBCOMMITTEE AMENDMENT

PCB Name: PCB THSS 13-01 (2013)

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1291 enforcing a lien by selling the motor vehicle; requiring the
1292 lienholder to notify the local law enforcement agency in writing
1293 by certified mail informing the law enforcement agency that the
1294 lienholder has made a good faith effort to locate the owner or
1295 lienholder; specifying that a good faith effort includes a check
1296 of the Department of Highway Safety and Motor Vehicle database
1297 records and the National Motor Vehicle Title Information System;
1298 setting requirements for notification of the sale of the vehicle
1299 as a way to enforce a lien; requiring the lienholder to publish
1300 notice; requiring the lienholder to keep a record of proof of
1301 checking the National Motor Vehicle Title Information System;
1302 amending s. 713.78, F.S.; revising provisions for enforcement of
1303 lien for recovering, towing, or storing a vehicle or vessel;
1304 providing an

1305